

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Nextel Communications Request for	)	
Reinstatement of Applications for Relocation of	)	File Nos. D141263, D141372
800 MHz Upper 200 Channels Pursuant to Section	)	
90.699 of the Commission's Rules	)	

**ORDER**

**Adopted: March 18, 2002**

**Released: March 19, 2002**

By the Chief, Policy and Rules Branch, Commercial Wireless Division, Wireless Telecommunications Bureau:

1. On April 21, 2000, Nextel License Holdings 1, Inc. filed the above-captioned application assigned File Number D141263, and Patterson Communications & Electronics (Patterson) filed the captioned application assigned File Number D141372. On June 13, 2001, the Commercial Wireless Division's Licensing and Technical Analysis Branch (Branch) dismissed both applications. On July 11, 2001, Nextel Communications, Inc. (Nextel) sought reconsideration of that action (Petition).<sup>1</sup> For the reasons discussed below, we dismiss Nextel's Petition as moot.

2. On June 17, 1998, Nextel's wholly owned subsidiary, Nextel License Acquisition Corp., became the geographic area licensee for 475 of the licenses auctioned in the upper 200 channels of the 800 MHz band.<sup>2</sup> The 475 licenses included Economic Area (EA) licenses for the Gulfport, Mississippi area. Patterson is an incumbent licensee in that same area. Nextel and Patterson manually filed the above-captioned applications on April 21, 2000, as part of a voluntary agreement, pursuant to section 90.699 of the Commission's rules, to relocate five upper 200 channels in the 800 MHz band from Patterson's station WNGC457 in Gulfport, Mississippi, to Nextel, and to relocate five general category channels from two Nextel stations to Patterson.<sup>3</sup> Because the relocations would result in a *de minimus* extension of Patterson's interference contour, Nextel also requested a waiver of Section 90.693 of the Commission's rules, which prohibits expansion of an incumbent's interference contour.<sup>4</sup>

3. While the applications were pending, in August 2000, the Commission held its auction for the 800 MHz general category channels.<sup>5</sup> Southern Communications Services, Inc. (Southern) became the geographic area licensee for Economic Area (EA) 82, Blocks D, E, and F. These three EA

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<sup>1</sup> Petition for Reconsideration of Dismissal filed by Nextel Communications, Inc. (July 11, 2001). According to the Petition, Nextel License Holdings 1, Inc. is a wholly owned subsidiary of Nextel Communications, Inc. *Id.* at 1.

<sup>2</sup> Auction No. 16.

<sup>3</sup> Petition at 1-2; 47 C.F.R. § 90.699. The five channels to be relocated from Nextel to Patterson included general category frequencies 851.1375, 852.3375, 853.7875, and 854.4875 MHz from Nextel station WPIP477, and 852.7875 MHz from Nextel station WPFC808. Petition at 2.

<sup>4</sup> Petition at 2 (citing 47 CFR § 90.693).

<sup>5</sup> Auction No. 34.

blocks contain four of the five general category frequencies included in the proposed relocation.<sup>6</sup>

4. The Branch returned both applications following the auction by Return Notices dated April 6, 2001. In returning the applications, the Branch explained that it could not approve the waiver request until Patterson obtained consent from Southern to expand Patterson's existing contour into Southern's licensed geographic area.<sup>7</sup> The Branch further instructed Patterson to file an amendment to its application that included a copy of the consent agreement by June 5, 2001, 60 days from the date of the Return Notices. In a letter dated June 4, 2001, Southern consented to the grant of Patterson's application.<sup>8</sup>

5. While Southern's consent pertained only to Patterson's application, the Branch had returned both applications because they were the two sides to the same relocation agreement. Once Southern provided its letter of consent, Nextel submitted the amended applications to the Industrial Telecommunications Association, Inc. (ITA) for frequency coordination and filing through the Commission's Universal Licensing System (ULS).<sup>9</sup> In its Petition, Nextel explains that because of a problem with a password, ITA was unable to complete the filing through ULS by June 5, 2001. Accordingly, on June 5, 2001, ITA submitted a copy of the April 6, 2001 Return Notices with its stamped certification and an explanation of why the amended applications were not filed through ULS.<sup>10</sup> On June 13, 2001, the Branch dismissed the amended applications because Nextel and Patterson did not submit the applications on FCC Form 601 – the form used for filing applications in ULS. In response, Nextel filed its Petition on July 11, 2001, seeking reinstatement of the applications.

6. Six days later after reviewing the facts in this case, on July 17, 2001, the Branch, on its own motion, reversed the dismissal and returned the applications to pending status. On July 18, 2001, the Branch granted the applications. Under the grant, Nextel is licensed on call sign WPIP477, and Patterson is licensed under call sign WPFC808.<sup>11</sup> Accordingly, we dismiss Nextel's Petition as moot.

7. Accordingly, IT IS ORDERED that, pursuant to section 4(i), 303(r), and 405 of the Communications Act, as amended, 47 U.S.C. §§ 154(i), 303(r), 405, and sections 0.331 and 1.106 of the Commission's rules, 47 C.F.R. §§ 0.331, 1.106, that the Petition for Reconsideration of Dismissal filed by Nextel Communications, Inc. on July 11, 2001, IS DISMISSED as moot.

FEDERAL COMMUNICATIONS COMMISSION

Paul D'Ari  
Chief, Policy and Rules Branch  
Commercial Wireless Division  
Wireless Telecommunications Bureau

<sup>6</sup> The four frequencies are 851.1375 MHz (Block D), 852.3375 and 852.7875 MHz (Block E), and 853.7875 MHz (Block F).

<sup>7</sup> FCC Form 698, Notice of Application Return to Patterson Communications & Electronics (April 6, 2001).

<sup>8</sup> Letter from John Logan, Patterson Communications & Electronics, to the Commercial Wireless Division's Licensing and Technical Analysis Branch (June 4, 2001).

<sup>9</sup> ITA is a Commission-certified Frequency Coordinator for the 800 MHz general category channels.

<sup>10</sup> Petition at 3.

<sup>11</sup> Wireless Telecommunications Bureau Site-By-Site Action, *Public Notice*, Report No. 923 at 22-23 (July 25, 2001).